

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner lives in subsidized housing. Based on her lack of income her portion of the rent is only \$25 a month.

3. Using form statements provided by the petitioner's doctors the Department has paid the petitioner's rent through GA whenever her doctors stated that she was disabled from all work for 30 days.

4. On February 26, 2002 the Department denied the petitioner's application for GA for rent payment because the form the petitioner had brought from her doctor that month stated that she was able to perform "office work".

5. A hearing was initially held on April 18, 2002, at which time the petitioner did not contest her physical ability to perform sedentary work. At that time the hearing office advised the petitioner to obtain a statement from either Vocational Rehabilitation or the Department of Employment and Training that there were no sedentary jobs available to her in her community (St.Albans).

6. A hearing was reconvened on May 16, 2002. At that time the petitioner brought in a doctor statement that she could not perform any work due to a deterioration of her health. Based on this information the Department granted the petitioner GA as of that date and the matter was continued for the Department to reconsider the petitioner's disability for the months of March and April.

7. At another hearing on June 11, 2002 the Department indicated that it had affirmed its denial of GA to the petitioner for March and April because the only medical evidence available indicated that the petitioner was able to work during that time. The petitioner stated that as a result of the denial of GA for those months she was \$50 behind in her rent, but that to date she had received no threat or demand from her landlord or from the housing authority that she pay it. The petitioner was advised that she could reapply for GA if she had an emergency need for housing based on the nonpayment of this arrearage.

ORDER

The Department's decision is affirmed.

REASONS

As a general matter GA is only available to individuals without minor dependents if they are determined to be not "able-bodied". W.A.M. § 2600. Able-bodied is defined in § 2601 of the regulations as follows:

No physical or mental impairment exists which prevents the person from working. A person shall not be considered able-bodied if currently unable to work in any type of employment due to physical or emotional problems that have lasted or presumably will last at least 30

days. This eligibility factor must be verified by a signed statement from a physician or licensed practitioner whose services would be covered under Medicaid were the GA applicant a Medicaid recipient. The Department shall pay the reasonable expense of required medial examinations but may require, and pay for, a second opinion.

As noted above, the only medical evidence produced by the petitioner prior to May 15, 2002 was that she was capable of performing "office work". Although the above regulation makes no mention of either an individual's training or local job-market conditions, it must be concluded that the petitioner failed to show that there were no jobs available to her if she could have performed sedentary work at that time.

Of course, based on subsequent medical information, the petitioner can argue that she was disabled from all work during March and April. However, the medical evidence she has submitted to date only addresses such a disability as of May 16, 2002. Moreover, the petitioner has not demonstrated that she has a continuing "emergency need" to pay her portion of the rent for March and April. As noted above, her arrearage is only \$50, her current rent is being paid, and there has been no demand for her to immediately become current in her rent. Based on the above, it cannot be concluded that the petitioner has established a legal entitlement to GA that

would require the Department to pay her rent retroactively for March and April.

As noted above, the petitioner can reapply for GA if she is faced with a "catastrophic situation"¹ based on her rent arrearage. As of now, however, it must be concluded that the Department's decision in this matter was in accord with its regulations. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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¹ Different eligibility rules apply to catastrophic situations. See W.A.M. § 2602.